

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 13-10201-GAO

WILLIE HARRIS,
Plaintiff,

v.

CAROLYN W. COLVIN,
Acting Commissioner of Social Security, Defendant.

OPINION AND ORDER

November 7, 2014

O'TOOLE, D.J.

The plaintiff, Willie Harris, seeks review of a final decision of the Commissioner of the Social Security Administration denying the plaintiff's application for disability insurance benefits and supplemental security income. The defendant moved to dismiss the complaint pursuant to Federal Rule of Civil Procedure 12(b)(3) or, in the alternative, to transfer the case to the Northern District of Alabama. The plaintiff has not opposed the motion.

Under 42 U.S.C. § 405(g), actions seeking review of the Commissioner's final decision "shall be brought in the district court of the United States for the judicial district in which the plaintiff resides, or has his principal place of business . . ." The plaintiff states that at the time of the agency hearing he resided in Suffolk County, Massachusetts. (Compl. ¶ 4 (dkt. no. 1).) However, the relevant inquiry under 42 U.S.C. § 405(g) is the residence at the time the action is commenced.

The plaintiff filed his complaint with the assistance of a Massachusetts attorney. He simultaneously moved to proceed in forma pauperis and provided a residential address in Cleveland, Ohio. Social Security Administration records indicate that the plaintiff had moved to

Bessemer, Alabama by the time this action was commenced. Accordingly, it appears that venue properly lies in the Northern District of Alabama.

For the foregoing reasons, the defendant's motion (dkt. no. 10) to dismiss or, in the alternative, for transfer is GRANTED, and the case is transferred to the Northern District of Alabama, where venue is appropriate under 42 U.S.C. § 405(g).

It is SO ORDERED.

/s/ George A. O'Toole, Jr.
United States District Judge